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09/630,896	08/02/2000	Timothy J. Mousley	1999P00481 US	7981
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BRIARCLIFF MANOR, NY 10510				
EXAMINER				
GREY, CHRISTOPHER P				
ART UNIT		PAPER NUMBER		
2474				
NOTIFICATION DATE		DELIVERY MODE		
10/27/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Response to Arguments

1. Applicant's arguments filed on 10/4/11 have been fully considered but they are not persuasive.

a. The applicant argued that the cited portions of the reference Han do not teach the applicants "wherein the indicated highest available data rate of at least one available random access channel is lower than a highest data rate that could be made available to the at least one random access channel, based on a potential future demand for capacity".

The examiner respectfully disagrees with the applicants remarks, and would like to highlight the following portion of the limitation "that could be made available". The term "could" is not a positive recitation and leaves the remaining portion of the limitation open to a very broad interpretation. Based on the broadest reasonable interpretation, taking into account the term "could", Han shows that the data rate (data rate is equivalent to a code class in Column 4-notice multi-transmission rate; and class is well known in the art to map to data rate/BW), could be any of 0-6, 6 representing the highest code class. Therefore, one skilled in the art at the time of the invention can clearly interpret Han's citation as fulfilling the claimed limitation, since when the indicated rate/class is 0-5, the rate/class is lower than the highest possible rate, which could be 6. The examiner also notes that potential future demand capacity could be any of class 0-6, but for sake of argument, we have made it 6.

Based on the response to the applicant's remarks given above, that examiner remains the rejection of claims 15 and 30.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER GREY whose telephone number is (571)272-3160. The examiner can normally be reached on 10AM-7:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Moe Aung can be reached on (571)272-7314. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher P Grey/
Primary Examiner, Art Unit 2474